



## **DECISION of the JUDICIAL COMMITTEE of the FEI**

**Dated 23 April 2007**

**Positive Medication Case No.:** 2006/61

**Horse:** CEZAR

**FEI Passport No:** HUN01862

**Person Responsible:** Mr Krisztián Búza, HUN

**Event:** CSIO 4\* - W Zagreb, CRO

### **Prohibited Substances:**

- (1)** Benzoylecgonine (metabolite of Cocaine, Narcotic)
- (2)** Methylecgonine (metabolite of Cocaine, Narcotic)

## **1. COMPOSITION OF PANEL**

Mr Ken E. Lalo  
Mr Philip O'Connor  
Dr Jens Adolphsen

## **2. SUMMARY OF THE FACTS**

**2.1 Memorandum of case:** By Legal Department.

**2.2 Summary information provided by Person Responsible (PR):** The Judicial Committee took into consideration all documents presented in the case file, as also made available by and to the PR.

**2.3 Oral hearing:** None; by correspondence.

## **3. DESCRIPTION OF THE CASE FROM THE LEGAL VIEWPOINT**

**3.1 Articles of the Statutes/ Regulations which are applicable or have been infringed:**

Statutes 21<sup>st</sup> edition, revision effective May 2006, ("**Statutes**"), Arts. 001.6, 057 and 058.

General Regulations ("**GR**"), 21<sup>st</sup> edition, effective 1 June 2006, Arts. 142, 146.1 and 174.

The Equine Anti-Doping and Medication Rules ("**EADMCRs**"),

effective 1 June 2006.

Veterinary Regulations ("**VR**"), 10<sup>th</sup> edition, effective 1 June 2006, Art. 1013 and Annex III (the Equine Prohibited List).

FEI Code of Conduct for the Welfare of the Horse.

**3.2 Person Responsible:** Mr Krisztián Búza

**3.3 Justification for sanction:**

GR Art. 146.1: "The use of any substance or method that has the potential to harm the horse or to enhance its performance is forbidden. The precise rules concerning Prohibited Substances and Medication Control are laid down in the EADMCRs."

EADMCRs Art. 2.1.1: "It is each Person Responsible's personal duty to ensure that no Prohibited Substance is present in his or her Horse's body during an Event. Persons Responsible are responsible for any Prohibited Substance found to be present in their Horse's bodily Samples."

**4. DECISION**

**4.1 Consideration of the evidence:**

- a. Cezár (the "**Horse**") participated in CSIO 4\* - W Zagreb (CRO) from 21 to 24 September 2006 (the "**Event**"). The Horse was ridden by Mr Krisztián Búza who is the Person Responsible in accordance with GR Article 142 (the "**PR**").
- b. The Horse was selected for sampling on 23 September 2006. Analysis of the blood sample no. FEI-0014574 taken from the Horse performed by the approved central laboratory of the FEI, the Laboratoire des Courses Hippiques in France ("**LCH**"), revealed the presence of Benzoyllecgonine and Methylecgonine (Certificate of Analysis 0014574 dated 20 October 2006).
- c. Both substances are metabolites of Cocaine (Certificate of Analysis 0014574 dated 20 October 2006). Cocaine is a local anaesthetic but has stimulating effects on the Central Nervous System (Veterinary Department's Statement dated 22 February 2007) and accordingly are substances specified in the first section of the Equine Prohibited List (VR Annex III) as "Doping" Prohibited Substances.
- d. A Confirmatory analysis has not been timely and properly requested by or on behalf of the PR. The FEI Legal Department sent a Notification Fax to the PR, through his NF, on 21 December 2006, by fax and registered courier, informing the PR of the positive A sample result. On 29 January 2007, the FEI Legal Department sent a reminder by fax providing the PR with an extension of the deadline to submit his explanation to 6



February 2007. On the same date, the FEI Legal Department also sent a fax to the HUN-NF seeking confirmation that Mr Búza has received the FEI's communications. No answer was provided to the FEI from either the PR or the NF.

- e. After several notifications by the FEI Legal Department and attempts at obtaining an explanation to the presence of the prohibited substances in the Horse's systems, the PR has finally stated in an e-mail dated 8 March 2007 and in follow-up communications (including a letter dated 14 January 2007, which the FEI has apparently not received prior to the 8 March e-mail), that neither the PR nor anyone of his group (groom, owner, accompanying persons) gave any prohibited substances to the Horse. The PR further stated that the Horse is of a lazy type and the prohibited substances found could only make the Horse even more sluggish. The PR indicated that the Horse did not perform well at the event. The only plausible explanation offered by the PR to the positive findings was an intervention by a third party (making certain references to prior competitions in Hungary).
- f. The case was sent to the panel of the Judicial Committee on 19 March 2007.
- g. The establishment of the objective elements of a doping offence creates the presumption of guilt of the PR. The finding on analysis of a prohibited substance is presumed to be a deliberate attempt of the PR to affect the performance of the Horse. The PR has the opportunity to seek to rebut this presumption, in accordance with EADMCRs Article 10.5.
- h. The PR has not provided an acceptable explanation to the positive test results. It is the PR's obligation to investigate and explain fully the presence of drugs in the Horse's systems. Lack of stable security is not an excuse in doping cases and the PR is to ensure excellent stable management and proper security over horses used in international events in order to ensure that they are not administered any prohibited substances either negligently or willfully. The responsibility of the PR as laid down in the provisions of the VR (including Article 1005.2.4 and 1013.6) and the GR (Article 142.7) has been approved by the CAS: "*As the rider remains responsible for the supervision of his horse, a fault of the Person Responsible cannot be excluded just because of lack of stable security*" (Arbitration CAS 2000/A/275, *Luyckx v/ FEI*, 17 October 2000, para. 24; CAS 2000/A/313 *Bunn v/ FEI*, 19 June 2001, para. 45-47). The PR has therefore failed to rebut the presumption that the doping violation was a deliberate attempt of the PR to affect the performance of the Horse.

- i. In deciding the sanctions the Judicial Committee considered, on the one hand, the doping violation and types of substances involved and the PR's failure to explain the presence of prohibited substances in the Horse's systems; and, on the other hand, the fact that this is the PR's first offense, the level of the Event and the PR's international competition record which is very limited. The Judicial Committee therefore condemns these actions on both sport integrity and welfare grounds.

#### **4.2 Disqualification**

As a result of the foregoing, the Judicial Committee has decided to disqualify the horse CEZAR and the PR from the Event and that all medals, points and prize money won at the Event must be forfeited, in accordance with EADMCRs Article 9.

#### **4.3 Sanctions**

As a consequence of the foregoing, the Judicial Committee decides to impose on the PR the following sanctions, in accordance with GR Article 174 and EADMCRs Article 10:

- 1) The PR shall be suspended for a period of **ten (10) months** to commence immediately and without further notice at the expiration of the period in which an appeal may be filed (30 days from the date of notification of the written decision) or earlier if the appeal is waived in writing by or on behalf of the PR.
- 2) The PR is fined **CHF 500.-**.
- 3) The PR shall contribute **CHF 1,000.-** towards the legal costs of the judicial procedure.

#### **5. DECISION TO BE FORWARDED TO:**

**5.1 The person sanctioned:** Yes

**5.2 The President of the NF of the person sanctioned:** Yes

**5.3 The President of the Organising Committee of the event through his NF:** Yes

**5.4 Any other:** No

#### **6. THE SECRETARY GENERAL OR HIS REPRESENTATIVE:**

Date : 23 April 2007

Signature: 